

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

Building Code Appeals Board  
Docket No. 05-466

The Institute of Professional Practice,	)
Appellant	)
	)
v.	)
	)
City of Leominster,	)
Appellee	)
	)

BOARD'S RULING ON APPEAL

Procedural History

This matter came before the State Building Code Appeals Board ("Board") on Appellant's appeal filed pursuant to 780 CMR §122.1. In accordance with 780 CMR §122.3, Appellant asks the Board to grant a variance from 780 CMR § 1204.1 of the Massachusetts State Building Code ("Code") with respect to a room intended to be used as a bedroom in a building owned by the Institute of Professional Practice.

By letter dated July 23, 2007, William Charpentier, Building Inspector for the City of Leominster ("Appellee") denied the certificate of occupancy for a bedroom in the basement because the ceiling height did not meet the minimum requirements set forth in 780 CMR § 1204.1.

In accordance with G. L. c. 30A, §§10 and 11; G. L. c. 143, §100; 801 CMR §1.02 et. seq.; and 780 CMR §122.3.4, the Board convened a public hearing on Thursday, September 6, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Michael Farrah appeared on behalf of Appellant. William Charpentier appeared on behalf of Appellee.

Reasons for Variance

The issue is whether Appellant should be allowed a variance from the limitations set forth in 780 CMR § 1204.1. Mr. Farrah testified that the building is used as a residential group home partially funded by the Department of Mental Health and the Department of Mental Retardation. The building will house 4 residents and will include 2 staff members not living at the residence. The room intended to be used as a bedroom has a ceiling height of approximately 6' 11". The Board considered the evidence that the space in question was pre-existing, there was an emergency egress window at grade that meets 780 CMR § 1010.4, there are two means of egress from the

space in question, the building has interconnected smoke detectors, the building is staffed 24 hours a day, and routine fire drills are performed as part of the licensure from the Department of Mental Health.

The Appellee did not object to the variance request.

### Decision

Board Member Brian Gale made a motion to grant a variance from 780 CMR§ 1204.1 based on the testimony that the ceiling height is 6' 11" which is an pre-existing condition ("Motion"). The Motion was seconded by Dana Haagensen. Following testimony, and based upon relevant information provided, Board members voted to approve the Motion as described on the record. The Board voted as indicated below.

☒..... **Granted**                      ☐..... **Denied**                      ☐..... **Rendered Interpretation**

☐..... **Granted with conditions**                      ☐..... **Dismissed**

The vote was:

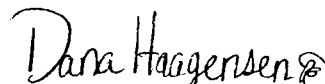
☒..... **Unanimous**                      ☐..... **Majority**



Robert Anderson - Chair



Brian Gale

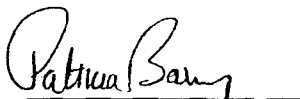


Dana Haagensen

Any person aggrieved by a decision of the State Building Code Appeals Board may appeal to a court of competent jurisdiction in accordance with Chapter 30A, Section 14 of the Massachusetts General Laws.

A complete administrative record is on file at the office of the Board of Building Regulations and Standards.

A true copy attest, dated: June 30, 2008

  
Patricia Barry, Clerk

All hearings are audio recorded. The digital recording (which is on file at the office of the Board of Building Regulations and Standards) serves as the official record of the hearing. Copies of the recording are available from the Board for a fee of \$5.00 per copy. Please make

requests for copies in writing and attach a check made payable to the Commonwealth of Massachusetts for the appropriate fee. Requests may be addressed to:

Patricia Barry, Coordinator  
State Building Code Appeals Board  
BBRS/Department of Public Safety  
One Ashburton Place – Room 1301  
Boston, MA 02108